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December 19, 2013

Honorable Alison J. Nathan
United States District Court
Southern District of New York
United States Courthouse
40 Foley Square
New York, New York 10007

**RE: In the Matter of the Complaint of Conti II Container
Schiffahrts GMBH & Co. KG, MS "MSC FLAMINIA" as
Owner and NSB Niederelbe Schiffahrtsgesellschaft
MBH & Co. KG, as Operator of the MSC FLAMINIA for
Exoneration from or Limitation of Liability
Index No: 12 Civ. 8892 (AJN)
Our File: 13-99-4810/JER**

Dear District Judge Nathan:

We are co-counsel for the Petitioners Conti II Container Schiffahrts GmbH & Co. KG, as Owner and NSB Niederelbe Schiffahrtsgesellschaft MBH & Co. KG, as Operator of the MSC FLAMINIA, in the captioned matter.

We are writing to respectfully request that Petitioner's time to respond to Claimant Iwona Siuta's demands for document discovery, interrogatories and requests for admissions be extended approximately thirty (30) more days from December 26, 2014 to January 31, 2014, and that the time for re-filing Siuta's motion to establish a separate limitation fund continue to be extended until the completion of this discovery.

This request is necessary because the resources of NSB and Conti's shoreside personnel who are needed to respond to the discovery continue to be almost exclusively devoted to the task of discharging the cargo from the MSC FLAMINIA and participating in the fire investigations which are being conducted on the vessel as the cargo is discharged. These efforts have been complicated by the need to move the ship from Romania to a port in Denmark, so that the operations may be accomplished more efficiently. The ship has been moved, and the discharge operations and fire investigations are being completed, and NSB and Conti shoreside staff may now devote resources elsewhere. We are also informed that two of NSB's key staff, who would otherwise be involved in gathering responses for the pending discovery, are ill and are not expected to return to work this

Honorable Alison J. Nathan
December 19, 2013
Page 2

year. Given the unforeseen complications with the discharge operations which required moving the ship, the unexpected illnesses of key staff, and the imminent holiday season, we respectfully request this extension on behalf of NSB and Conti.

May we respectfully point out that the Siuta discovery demands and this request for an extension to respond are an exception to the merit discovery schedule under which the underlying limitation of liability proceedings are being managed. As Your Honor may recall, the Siuta claim involves a claim for the wrongful death of the FLAMINIA Chief Officer Siuta, and the extensive discovery demanded by the Siuta Estate which resulted from NSB and Conti's choice of law defenses to that claim. Although Petitioners have previously produced over 8,500 pages of documents in answering prior merit discovery demands from the cargo claimants in this matter, the Siuta requests are additional and beyond the scope of the previous productions. Because of the pending choice of law issue and the distinctions between the Siuta claim and the claims of the cargo interests, the parties have agreed to postpone merit discovery in the Siuta matter until the choice of law and increase of limitation fund issues have been decided, subject to the Court's concurrence.

Counsel for Siuta consents to the requested extensions, with the understanding that as before, Siuta may re-file its motion for a Separate Limitation Fund upon completion of the discovery described.

The Claimant previously requested a 90 day extension to submit its Reply papers to NSB and Conti's opposition to the original Motion for a Separate Fund, which was originally filed on October 13, 2013. That motion was administratively dismissed with leave to refile after this discovery is completed.

NSB and Conti previously requested a 90 day extension to respond to these discovery demands, for similar reasons as explained above, but before it became necessary to move the ship to Denmark. That request was also granted.

We thank Your Honor for considering this request.

Respectfully submitted,

DOUGHERTY, RYAN, GIUFFRA, ZAMBITO & HESSION

BY: JAMES E. RYAN



JER/jr

cc: **VIA ELECTRONIC MAIL**
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